

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JTM CONCEPTS, INC.,

Plaintiff,

v.

CRRC MA CORP.,

Defendant.

C.A. No.: 20-cv-11029-GAO

**CRRC MA CORP.’S MOTION TO DISQUALIFY
THE HONORABLE GEORGE A. O’TOOLE, JR.**

Defendant/Counterclaim-Plaintiff CRRC MA Corp. (“CRRC”) respectfully moves to disqualify the Honorable George A. O’Toole, Jr. pursuant to 28 U.S.C. § 455(a). In support of this Motion, CRRC states as follows:

1. 28 U.S.C. § 455(a) provides: “[a]ny justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.”

2. The proper test for determining whether Section 455 requires disqualification “is whether the charge of lack of impartiality is grounded on facts that would create a reasonable doubt concerning the judge’s impartiality, not in the mind of the judge himself or even necessarily the mind of the litigant filing the motion . . . , but rather in the mind of the reasonable man.” *United States v. Cowden*, 545 F.2d 257, 265 (1st Cir. 1976).

3. On September 8, 2020, this Court held a scheduling conference pursuant to Fed. R. Civ. P. 26. During the status conference, Judge O’Toole made the following disclosures:

- a. His Honor and the managing partner of the law firm representing the plaintiff in this matter, Lisa Arrowood, who is also lead counsel for plaintiff in this matter, previously worked together at the law firm, Hale & Dorr;
- b. His Honor and Attorney Arrowood see each other at social gatherings on occasion; and
- c. Attorney Arrowood previously represented Judge O'Toole's wife in an employment matter.

4. These facts, and in particular Attorney Arrowood's representation of Judge O'Toole's wife, would create a reasonable doubt concerning his Honor's impartiality in the mind of a reasonable person.

5. Accordingly, CRRC respectfully requests that his Honor disqualify himself from any and all judicial responsibility or adjudication in this matter.

WHEREFORE, for the foregoing reasons, CRRC respectfully requests that this Motion be allowed, that Judge O'Toole disqualify himself and that this case be re-assigned to a different judge of this Court.

LOCAL RULE 7.1 CERTIFICATION

Undersigned counsel hereby certifies that, in accordance with Local Rule 7.1, counsel for CRRC has conferred with counsel for the Plaintiff, Edward Foye, Esq., in a good faith attempt to resolve or narrow the issues raised by this Motion. Plaintiff's counsel indicated that Plaintiff opposes the relief requested in this Motion.

Respectfully submitted,

CRRC MA CORP.

By its attorneys,

/s/ Adam R. Doherty

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CERTIFICATE OF SERVICE

I, Adam R. Doherty, hereby certify that, on October 2, 2020, this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Adam R. Doherty